



May 21, 2013

Mr. John R. Baza
Director, Division of Oil, Gas and Mining
Dept. of Natural Resources
1594 West North Temple, Suite 1210
PO Box 145801
Salt Lake City, UT 84114-5801

Re: Long term bonding proposal under the Utah Coal Program

Dear Mr. Baza:

Thank you for the opportunity to meet with you on May 10, 2013 regarding the Utah Division of Oil, Gas and Mining (the Division) proposal to draft a rule addressing bonding for long-term water treatment under the Utah Coal Program. As stated in the meeting, members of the Utah Mining Association's (UMA) Environmental and Coal Operators Committees, subsequent to our meeting of December 19, 2012, carefully studied this issue and we came to the conclusion that a new rule to impose a long term bonding obligation is unnecessary.

The current bonding program provides adequate coverage for reclamation of areas disturbed by mining with a defined term, which ends after the re-vegetation success period (generally ten years following re-grading and re-seeding of surface disturbance). An indefinite extension of the bond term beyond the period of re-vegetation success would require amendment of the Utah Coal Mining and Reclamation Act (UCMRA), and is not supported by studies or analysis demonstrating the need for long-term bonding.

Evidence suggests there is no long-term pollution discharge problem facing the Utah coal mining industry. In 2011, Petersen Hydrologic conducted a survey of known coal mine drainage sites in Central Utah, and found no long-term discharges exceeding water quality limits.

The presence of acid mine drainage has led to the adoption of alternative bonding systems in some eastern states. However, western coal mining operations do not have the acid mine drainage issues that face eastern coal mining operations, due to the predominantly alkaline rocks surrounding western coal deposits.

Notably, the federal Office of Surface Mining Control and Reclamation (OSM) has declined to adopt general rules for state programs, recognizing that long-term pollutional discharge is not a nationwide issue. Therefore, if the Division agrees a rulemaking is unnecessary, we do not believe there would be consequences with OSM.

While UMA believes a rulemaking is the proverbial "solution in search of a problem," if the Division still seeks to proceed with promulgation of a rule, we conclude that additional statutory authority would be needed to impose a "perpetual bond" requirement under an alternative bonding system. No explicit authority currently exists for an alternative bonding system under Utah law.

Additionally, if a rulemaking proceeds, UMA respectfully requests to work closely with the Division to tailor a rule as narrow in scope as possible. The threshold for determining when long-term bonding would be required must be clearly defined, and the burden needs to be on the Division to demonstrate there is a continued water quality issue. Furthermore, there must be definitive criteria for when funds set aside can be released to the operator.

As you know, regulatory certainty is very important to our members, and "perpetual" bonding is not an option. Securing financial assurance would be difficult due to the lengthy timeframes involved, and long-term use of surety or collateral bonds, if available, would likely be prohibitive due to high up-front costs.

In summary, UMA believes the Division does not need to pursue a rulemaking for long-term bonding to address a problem that does not exist. Utah has never had such a problem, nor will it. There are relatively few coal mines, few abandoned or reclaimed mines, and fewer still that discharge any water.

I appreciate the Division's willingness to engage in a dialogue on this issue. Thank you for your consideration of our comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark D. Compton".

Mark D. Compton
President